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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

11 || EVANS ET AL., No. C-11-01078 DMR

12 Plaintiffs, **ORDER RE JOINT DISCOVERY  
LETTER**

13

14 LINDEN RESEARCH, INC. ET AL.

15 Defendants.

17 On July 15, 2011, the parties submitted a joint report pursuant to Federal Rule of Civil  
18 Procedure 26(f) in which they proposed an October 20, 2011 deadline for completing “Phase 1”  
19 discovery, which they agreed would “pertain solely to the issue of whether a class should be  
20 certified.” [Docket No. 57 at 6.] On August 8, 2011, the court entered a Case Management Order  
21 adopting certain deadlines in the parties’ July 15 joint report, including the October 20, 2011 Phase  
22 1 discovery deadline. Thereafter, on October 19, 2011, the parties submitted a stipulated proposed  
23 order to extend the October 20 “fact discovery cutoff solely for the purpose of scheduling and  
24 taking” three to four depositions [Docket No. 65], which the court entered on October 20, 2011. On  
25 January 6, 2012, the parties submitted a joint letter regarding their dispute regarding discovery  
26 which Plaintiffs assert is relevant to issues pertaining to class certification. [Docket No. 72.]  
27 Plaintiffs seek an order compelling further responses to interrogatories, requests for admission, and  
28 requests for production.

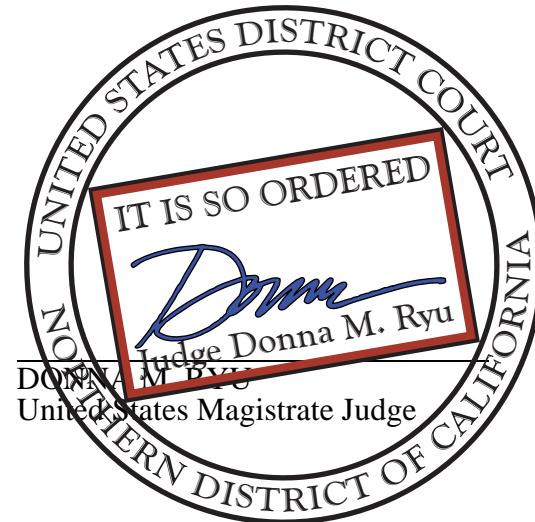
**United States District Court**

For the Northern District of California

1 Pursuant to Civil Local Rule 37-3, where the court has set a deadline for fact discovery, "no  
2 motions to compel fact discovery may be filed more than 7 days after the fact discovery cut-off."  
3 Accordingly, "[c]ounsel should initiate discovery requests and notice depositions sufficiently in  
4 advance of the cut-off date to comply with this local rule." Commentary to N.D. Civ. L.R. 37-3. To the  
5 extent that Plaintiffs seek an order compelling further responses to Phase 1 discovery, which  
6 closed on October 20, 2011, the court concludes that the joint discovery letter is untimely. To the  
7 extent that Plaintiffs seek an order compelling further responses to Phase 2 discovery, such a request  
8 is premature. Plaintiffs' request for an order compelling further responses to discovery is therefore  
9 DENIED.

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11 IT IS SO ORDERED.

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13 Dated: January 12, 2012



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